

**California Department of Transportation
Native American Advisory Committee
Quarterly Meeting Minutes
April 10, 2002**

Ben Scerato, Chairman, called the meeting to order and welcomed all in attendance.

Roll Call: Betty Miller called Roll. Committee members in attendance were Samuel Elizondo, Nicholas Fonseca, Joseph Garcia, Sr., Vlayn McCovey, Bo Mazzetti, Joseph A. Myers, William H. Richards, Sr., Joe Sanchez, Lorenda Sanchez, Ben Scerato, Randy Sunberg, Jr., and Kathy Wallace. Committee Alternate members in attendance were Martin Martinez for Michael Holman, Herold Arres for Andrew Masiel, Joey Martinez for Dave Nenna, and Aaron L. T-Holstine for Irenia Quitiquit.

Adopt Agenda: Motion by Joe Sanchez; Second by Mazzetti to adopt the Agenda. Vote was 16 For, 0 Against, 0 Abstain.

Approve Minutes: Minutes of the January 29, 2002 meeting were approved, with corrections/updates. Motion by Bo Mazzetti; Second by Joseph A. Myers. Vote was 16 For, 0 Against, 0 Abstain.

Director's Representative: Joan Sollenberger, Chief, Division of Transportation Planning, introduced Brian J. Smith, Deputy Director, Planning & Modal Programs, the Director's representative to the Committee. The Deputy Director welcomed the new Committee members for the 2002-2003 term. When queried as to how he sees his role, Mr. Smith explained that he acts as a conduit to the Director for the Committee. Joseph A. Myers said that he was concerned about Government-to-Government relations and the issue of contracting with Tribes. Mr. Smith indicated that he is actively advocating fixing the contracting problems.

Joan Sollenberger informed the Committee that the Tribal Transportation Academy (TTA) was conducted in Ontario, CA April 2 and 3, 2002. She expressed the Department's appreciation of the support received from Bo Mazzetti and the Reservation Transportation Authority, as well as that of the Committee in conducting the training. Comments received from the first TTA in Ukiah in 2001 were taken to heart in preparing the training for Ontario in an effort to improve the session. The Transportation Guide for Native Americans, February 2002, was used as the main training tool in Ontario.

OLD BUSINESS:

1. **Contracting with Tribes.** Joan Sollenberger briefly reviewed the report to the Committee in January, indicating that at that time the Department's Legal Office was reviewing various issues in an attempt to find a generic way to

change its contracting procedures as they affect Tribes. Since then, it is clear that there is no consensus among the Districts and HQ Legal regarding contracting. The Department is trying to implement new policy and is continuing to identify the issues in groups in order to review them most effectively. At the same time, there is a need to consider each situation singly. The Department appreciates that problems are being brought to its attention so that while it is grouping the issues, it can still work on single items of concern.

Ben Scerato said that it was his understanding that when the California Departments of General Services and Transportation approved the sale of State surplus mobile equipment to Tribes, in effect, approving contracts, that the issue was resolved. Bo Mazzetti indicated that there were two issues regarding contracting that require resolution: (1) Previously proposed (but not enacted) legislation, SB 1564, which would have clarified the State's ability to contract with Tribes, needed to be revised and proposed again; and, (2) TERO in turn has two issues: The first is to recognize the authority of Tribes to impose taxes and the second is to understand that the State is getting confused regarding the provisions of Proposition 209. Someone in the Department needs to do his or her homework.

Olivia Fonseca, Deputy Director, Civil Rights responded that the Department is in support of TERO and that it has no problem when Federal money is involved, but if a project is funded with State money there could be a problem. She suggested that perhaps a Tribal/Department committee might be established to help with resolving this issue. There were 8 State-funded projects and 15 TERO projects last year. Deputy Director Fonseca asked for volunteers to be on a committee to develop the TERO policy. Bo Mazzetti, Joseph Garcia, Richardo Tapia, Aaron Holstine and Martin Martinez volunteered to work with Department personnel to develop the policy.

Kathleen Sartorius, Native American Liaison for the Department, Northern Region, indicated that the Yurok Tribe has a number of State-funded TERO projects.

When Joseph Myers asked why 209 was a problem, Brian Smith explained that, in approving the sale of surplus mobile equipment to Tribes, the Government Services Administration had to adjust its interpretation of an administrative manual, not legislation. The Department's Legal Office believes that 209 applies to TERO. When Mr. Myers requested that representatives from Legal attend the next Committee meeting, Mr. Smith indicated that he preferred to work with that office rather than bring them to the meeting.

Cynthia Gomez, Chief, Native American Liaison Branch, remarked that it was important that TERO Tribes be involved, and Ricardo Tapia, Tribal Administrator for Coyote Valley Reservation, volunteered to work with the Civil Rights Office in this regard. Mr. Tapia expressed concerns with the Mendocino County Council of Governments (MCOG) and its lack of cooperation regarding Tribal transportation needs and concerns. Mr. Tapia indicated that the Tribe believes itself to be a victim of Civil Rights discrimination relative to Environmental

Justice. Additionally, he expressed dissatisfaction with District 1 relative to the efforts the Tribe is making to obtain signage.

2. Negotiated Rule Making Update. Vlayn McCovey, Co-Chairperson of the Negotiated Rulemaking Committee, reported that the Notice of Proposed Rulemaking has not been published. (Original publication date was to have been February 2002.) Tribes will need to check the proposed rule very carefully, as changes have been made since the prior 2-rule edition. Vlayn will forward agendas for information sessions to Cynthia Gomez so that they may be distributed to as many Tribes as possible. The sessions will be for review, overview and explanation of the funding formula. Twelve meetings will be scheduled, with Sacramento being the location chosen for the Pacific Region. There are no maintenance funds covered in the rulemaking. Ben Scerato commended Vlayn McCovey for hanging in with the Rulemaking Committee through the long and arduous process.

3. Reauthorization Act. Cynthia Gomez completed a draft reauthorization information summary, which will be finalized and sent out to the Tribes. The summary was provided to the Business, Transportation and Housing (BT&H) Agency staff for support of the issues. BT&H's main concept for the reauthorization is getting more funds to California. Also, Ron Hall, TTAP Director, Colorado State University, is spearheading a "white paper" with the National Congress of American Indians to propose legislation for the reauthorization on national Indian transportation issues.

4. Legislative Subcommittee Report. Andrew Masiel, Subcommittee Chairperson, was unable to attend the meeting. Report was tabled until July, 2002 meeting.

Ms. Gomez briefly called the Committee's attention to three pieces of legislation being considered in California: SB 1549, relating to tribal gaming (improvements; funding); SB 1816, relating to historical resources (Native American sacred sites, violations); and SB 1828, relating to historical resources (affected Native American sacred sites, California Environmental Quality Act.)

5. Highway Landscaping Subcommittee. Kathy Wallace reported that the Subcommittee had not met since January but was planning to do so on the same day as the upcoming Environmental Subcommittee, May 23, 2002. Cynthia Gomez requested that the proposed Highway Landscaping Subcommittee reschedule its meeting so as not to conflict with the Environmental Subcommittee meeting. Kathy Wallace agreed that her committee meeting could be rescheduled, perhaps for May 22.

Ricardo Tapio asked about the emphasis on native plants and the requirements for accessing the highways. The encroachment permit process is required, but there is no permit charge for Tribal Governments.

6. Environmental Subcommittee Report. Jila Priebe reviewed the origin and purpose of the Subcommittee and announced that the next meeting would be held at Robinson Rancheria on May 23, 2002. Prior meeting Minutes have been posted on the Department's Committee web site.

7. Tribal Transportation Academy. Cynthia Gomez reported that the training for southern California (Tribes in Department Districts 5, 8 and 11) was conducted in Ontario on April 2-3, 2002. The Academy for central California will be conducted later this year, but an exact date and location have not been decided.

8. Memorandum of Understanding. Jila Priebe reviewed the purpose of the Memorandum of Understanding (MOU), which is to serve as a "template" to establish protocol for conducting business between the Department and Tribal Governments. She explained that the document had been circulated within the Department, as well as to the Committee, for comment. The Committee members did not have any further changes to recommend, therefore, Ms. Priebe will distribute the MOU for use.

NEW BUSINESS:

California/Nevada Tribal Technical Assistance Program (TTAP) Contractor. Vince Fuentez, Director of the TTAP program for California and Nevada, addressed the meeting and explained his objectives and approach (printed synopsis distributed) to providing assistance to Tribes. Mr. Fuentez represents the National Center for American Indian Enterprise Development, the new contractor for the California/Nevada Center.

ANNOUNCEMENTS/OPEN FORUM:

1. Carol Gaubatz, Governor's Office of Planning and Research (OPR), arrived during morning session and was introduced to the Committee. She wanted to meet with the Committee to make contact and learn about pressing issues of the Native American community in order to better plan meetings between Tribal planners and OPR staff.

2. The 9th Annual Northwest Tribal Transportation Symposium, May 7-9, 2002, Ocean Shores, WA, was announced. Copies of the flyer and registration were distributed.

3. The Four-Corners Institute for Tribal/State Relations Tribal Technical Assistance Program, May 22-23, 2002, Durango, CO, was announced. Copies of the flyer and registration were distributed.

4. Kathy Wallace announced that the annual Basketweavers Conference would be held at Chasau??? Grinding Rock State Park, June 22, 2002, Jackson, CA,

ADJOURNMENT:

The meeting was adjourned at 1: 00 p.m.

Submitted by: Betty Miller
Native American Liaison Branch